

Daniel Town Council Minutes
Monday, March 7, 2016 at 6:00 PM
Wasatch County Services Building, Room 126
55 South 500 East, Heber City, UT

Quorum present: Council members Bateman and Bunker were present when Mayor Turner called the meeting to order at 6:00 PM. Council member Glodowski arrived at 6:05 PM. Council member Blotter arrived at 6:06 PM. Treasurer Sherri Price was present, and clerk Lynne Shindurling to record the minutes.

Members of the public in attendance were: Shelly Bunker, Pam Skinner, Nick Frost, Stefanie Grady, Dan Dearden, Bridger Wilde, Tom Rawlings, Kim Norris, Ryan Taylor, and Tim Clark.

1) PUBLIC COMMENT CONCERNING ANY ISSUE NOT ON THE AGENDA

Pam Skinner addressed the Council regarding the proposed elementary school on Ranch Drive and concerns members of their homeowners' association have raised. She reported the Wasatch School Board has not met with their HOA since the February 1st Council meeting where it was stated the Board would like to meet with those individuals living on Ranch Drive. Members of the HOA attended School Board work meetings held on February 18th and March 3rd to update their own information. She also attended a Heber City Council meeting where the School Board asked permission of Heber City to hook the proposed school into the city sewer, and her impression was the Council was surprised the Board had not made such a request before purchasing the property for the school. The Health Department once again reiterated their position they would rather see the school be on the Heber City sewer system than construct its own septic system because of the wells in the area.

Heber City has also requested the School District perform a traffic study in the area. One proposal on the table is to end 2400 South (Rainbow Way) with a cul-de-sac for bus dropoff of students. Stephanie Grady reported the continuation of Wheeler Road east to Highway 40 is not in the City's near future plans. Dan Dearden stated the proposed school plans are still showing an "emergency" gate at the end of Ranch Drive, which he reports no other school has on premises.

Mayor Turner stated he and other officials of Daniel Town have a meeting scheduled with the School Board on Thursday, March 10th, and will address all of these issues. Mr. Dearden asked if it was an open meeting, and the Mayor replied only he and Council member Bunker and Ryan Taylor from the Town would be meeting with the school officials.

Mr. Dearden expressed the idea of the homeowners on Ranch Drive perhaps privatizing the road if that would strengthen their position. It had been expressed to them by a paving contractor that the road was not built for heavy traffic, such as buses and an increase in vehicles dropping off their children at the school. He reports there is already some

construction traffic there with contractors viewing the project. Council member Bunker asked who the individual from the County Health Department was advising Heber City, and the name Dwight Hill was brought forth by Stefanie Grady.

2) BUSINESS LICENSE APPLICATIONS

Council member Bunker reported nine companies had applied for renewal of their home business licenses, those being CCH2O, BMCI, Mountain Valley Construction, Timberline Lumber, Tee J's Mutt Cutts, Phil's TV & Appliance, Smitty's Small Engine Repair, Larson Ground Maintenance, and JM Trucking Company. Mayor Turner would like review of the Code by the Council before making the renewals, realizing there is a bill before the legislature to modify requirements for licensing home businesses in municipalities. Council member Bunker stated if they are not renewed at this time, they would be in violation. After the legislature adjourns and bills are signed, the issue can be revisited by the Daniel Town Council. Council member Blotter asked if there had been complaints made against any of these companies. Council member Bunker stated no written complaints had been lodged, only verbal. He stated even though the licenses are renewed on their anniversary date, a company found to be in violation can have a license revoked at any time, after discussion at a Council meeting and following the proper legal channels which afford the business owner a hearing before the Council.

The business licenses for all nine applicants were renewed by the Council.

3) PLANNING DEPARTMENT REPORT, CODE VIOLATIONS AND ENFORCEMENT

Planning Director Bunker produced his monthly planning report showing current code violations and/or problems on resident properties. He also reported on high wind damage within the Town and a 2.4 magnitude earthquake 9 miles WNW of Midway on February 24th.

Regarding the Witt-Heiner annexation on the east side of Highway 40, Council member Bunker produced a letter he had sent to Heber City, and Mayor Turner reported he attended the Heber City Council meeting to address the Town's concern where two adjoining municipalities are involved.

Mr. Bunker went on to state he would like to see the operator's manual for the Daniel Municipal Water system created by Epic Engineering in past years adopted as part of the well's emergency response documentation. Kim Norris reported the water personnel are aware of a couple minor problems but, overall, the system is functioning very well.

Mayor Turner stated on the US Highway 89 agreement he would like to put it to rest unsigned as no agreement has been reached on how to align 3000 South with Highway 189. Council member Bunker would like to keep the item on the agenda for a few more months as UDOT is working with surrounding communities on the Highway 40 agreement as well and doesn't want to see either agreement tabled if resolution is forthcoming.

Next Council member Bunker moved on to the new classification of noxious weeds at the state level and the addition of some new species to the state list. He is concerned that homeowners might not be able to identify the weeds on their property and treat them properly. As long as residents are actively working on a weed plan, it is acceptable as eradication of certain species is nearly impossible. Mr. Bunker also reported the County weed control is now more likely to cross municipal boundaries in their spraying in an effort to control the spreading of the noxious weeds. He spoke of a website that residents can visit to see what has been identified in their area and spray accordingly. Two modes of action used at the same time seem to produce a better kill.

Mayor Turner inquired of Council member Bunker regarding metering of secondary water as listed on his planning report. He has cited numerous bills dealing with water issues before the legislature currently and that, yes, all water is to be metered for conservation when the law becomes effective later in the year. Many questions remain unanswered until the matter is clarified through the new law. Council member Blotter asked if the base rate on DMW water and Storm Haven will have to be changed, and Mr. Bunker stated there will be a tiered system for billing handed down from the Division of Drinking Water, more than likely. Ryan Taylor feels the Town's two culinary water systems are in compliance with the current tiered billing based on amount of usage and may just have to be tweaked a bit when the new law is handed down. Kim Norris mentioned his concern of valuation of water shares owned by individuals for irrigation water and how those will be handled, or if the state will end up confiscating water or devaluing the shares drastically. He is wondering if the Daniel Irrigation Board is aware of the bill before the legislature and has notified its stockholders of the possible devaluation.

Dan Dearden asked the Council if they had heard mention of Timpanogos Irrigation running a new line down Ranch Drive. Ryan Taylor stated it is probably dealing with the proposed school. The irrigation line is on the west side of Ranch Drive and Mr. Taylor thinks the plan is to relocate the existing line there. The 8" culinary line will run on the east side of Ranch Drive from 3000 South to the school property. Mr. Norris asked the property owners who live on Ranch Drive if they are in favor of having the culinary line run up Ranch Drive. They all feel it is an advantage and will likely hook into it in the future.

Mayor Turner inquired if shares will be passed back to Daniel Town for the water hook-up by the school. Mr. Taylor stated he will have to review the correspondence in that regard. Pam Skinner stated initially when the lots were developed on Ranch Drive, there were 18 shares of water attached to each.

4) RECOMMENDATION FROM PLANNING COMMISSION WITH SUPPORTING DOCUMENTS ON SMITH LOT LINE ADJUSTMENT

Attorney Nick Frost from the Wrona law firm, representing the Smiths, represented on the white board the proposed lot line adjustment. He had met with the Planning Commission

on February 17th and the Commission issued a recommendation to the Town Council. He stated in 1998 a warranty deed conveyed 100' of frontage on 3000 South. Four days after the Smiths' purchase at that time, a plat was recorded by the previous owner reducing the frontage to only 70'. Because there is not the necessary frontage at this time, the Smiths have reached an agreement with Rick McEwen on the adjoining lot to the west for conveyance of the needed 30' of frontage to make a back lot accessible. However, since the Planning Commission recommendation it was discovered that a water meter exists on the 5' X 30' parcel with one connection which services three homes off a 4" waterline with a backflow device. Council member Blotter expressed his opinion that he does not feel conveying the piece only five feet deep for a landowner to obtain the necessary frontage is a good solution.

Ryan Taylor stated there are a number of solutions to resolve the issue, one of which would be to issue an easement over the property where the meter is located. Council member Bunker is concerned with a meter being located on property not belonging to the landowner, in this case the Smiths, who had requested a conveyance in the event of needed maintenance. The three lots in question originally shared one well and hooked into the Town water system using one meter. It is felt each lot should have a meter to be brought into compliance. With the backflow device, bacteria could be introduced into the existing waterline. Council member Bunker recommends if Mr. McEwen sells the 5' x 30' piece to the Smiths, he should move a meter onto his property servicing his own home, and a Town requirement that each additional user purchase their own water hookup. If the solution involves changing the original subdivision, all the property owners in the original subdivision would have to sign the Mylar agreeing to the terms.

Council member Blotter suggested the matter be sent back to the Planning Commission in light of discovery of the water meter being on the proposed conveyed property. Council member Bunker stated various other alternatives have been given to the Smiths for consideration, and would like the applicant to make a new proposal before the Council. Council member Blotter asked other council members if they would turn down a right-of-way or easement option as a solution. The Council concurred in not allowing that as an option.

Kim Norris stated there are three meters in service for property owners on the 4" waterline, but Council member Bunker stated all water is being metered from the single meter on the McEwen property. Mr. Frost inquired if new water regulations would mandate each landowner having their own meter. Council member Bunker stated the Daniel Code already states that and the three properties sharing one meter are already in violation. Since some action needs to be taken to accommodate the Smith property, he would like to see the issue brought up to code for all landowners.

Bridger Wilde asked the Council a question that if Mr. Smith was willing simply to bring in his own meter from the road and not accept the McKuens' meter, would the Council require the existing line and meter being brought into compliance. Mayor Turner replied he would like to have the whole issue reviewed before making that statement to Mr. Smith. Council member

Bunker also stated Mr. Smith would still be changing existing conditions by the mere fact that he is purchasing the land on which the meter sits.

Council member Bunker moved to have the matter continued to the next Council meeting, which was seconded by Council member Bateman. The motion passed unanimously.

5) FOLLOW-UP DISCUSSION ON US 189 UDOT PRESERVATION CORRIDOR AGREEMENT

As the matter was discussed under the Planning Report, Council member Bunker moved to continue discussion in the April Council meeting. The motion was seconded by Council member Bateman, passing unanimously.

6) FURTHER CONSIDERATION OF FLAG LOTS WITHIN THE TOWN

Mayor Turner asked Mr. Bunker about Daniel Code 8.27.15 titled Flag Lots. Council member Bunker clarified this section deals with flag lots within a subdivision when needed for division of property and the flag lot is contained within the subdivision. He stated this also takes into consideration irregular lots in order to control uneven and jagged boundaries. Several small-scale subdivisions had approved flag lots at the time of Town incorporation.

The previous recommendation from the Planning Commission on flag lots dated November 18, 2015 was produced. Discussion ensued regarding the road base material which would be required if approved. Council member Bunker mentioned in contrast to the new road standard dealing with rotomilled material which can serve three Erus, a flag lot would only allow access to one lot. Shelly Bunker voiced her opinion that the Town should not dictate a homeowner's driveway must be finished with specified materials.

At this point Council member Bateman suggested changing the wording on item 11 of the Planning Commission flag lot recommendation to read "20' wide with compacted road base with rotomill material. " After further discussion among Council members, Council member Bunker stated the document as written in its entirety would be hard to administer.

Council member Blotter moved that the Council deny or not accept the recommendation. No second on the motion was made. Council member Blotter amended his motion to be that of table the recommendation. Council member Bunker seconded the motion, which then passed unanimously.

7) DISCUSSION AND POSSIBLE RESOLUTION TO ADJUST BUILDING PERMIT FEES

Council member Bunker stated that because the Town is in the negative on several permits issued by the Town, it was requested that Epic Engineering make a recommendation on raising fees to cover the cost of performing building inspections and plan review services in Daniel Town. Solar permits was one of the services provided at a loss.

Council member Bateman suggested sending a bill to a homeowner at the completion of the work. Ryan Taylor stated the majority of the time the bill will not be paid at that time as

the work is finished and the homeowner has what they want. Council member Glodowski then suggested having a higher fee, and if the cost came in lower, a refund could be made to the contractor or homeowner. This, too, seemed problematic as it would involve too much paperwork and a judgment call. Council member Blotter moved to raise the fee to \$250.00 for a solar permit, Council member Bateman suggested \$275.00. Ryan Taylor, as the Town engineer, stated he feels \$250.00 is a reasonable number at this time and fees can be reviewed again in a year.

Tom Rawlings, who just installed solar panels at his home, commented on the increase of costs by all entities involved from the original cost stated and would appreciate the Town setting their fee based on the actual work performed.

Council member Blotter moved to add a fee for a solar permit in the amount of \$250.00, followed by more discussion.

A draft resolution had been prepared by the clerk listing the figures recommended by Ryan Taylor. Mayor Turner read Resolution DR-2016-03-07 into the record adding \$250.00 for a solar permit and recommending the building fees adopted in Resolution dated May 6, 2013 be added to the schedule. The initial draft resolution contained an either/or clause regarding commercial development.

Council member Glodowski moved to accept the resolution as amended and read by Mayor Turner. Council member Bunker seconded the motion, followed by discussion. The clerk reminded Mr. Taylor of a lot line adjustment up to \$500.00 which had been on an email provided to her but did not appear in the written resolution. Council member Bunker opined \$500.00 seemed high to him.

Mayor Turner stated there is a motion on the table with a second. Mr. Taylor added the line item of commercial development, being an either/or, should be addressed and decided upon by the Council. The Council selected the option of \$1,000.00 plus \$500.00, changing the wording to "\$500.00 per developed acre." The fee is paid upon application of concept approval. Council member Glodowski withdrew the pending motion.

Council member Bunker reiterated on the lot line adjustment \$500.00 seems a high figure. Council member Bateman suggested a figure of \$250.00, to be reviewed after one year with the commercial development wording suggested above. Council member Bunker stated if a problem is evident before passage of a year's time, it can be brought to the Council's attention.

Council member Blotter asked Mr. Taylor if additional costs are recouped from the applicant when it is obvious the initial permit fee does not cover the costs. Mr. Taylor stated when the Mylar is signed by all concerned, additional fees are paid in order to complete the permitting process. All are on a cost plus basis. Council member Blotter suggested at another

time the Council ought to consider the Town officials' time involved in planning matters as an additional cost to the applicant.

Mayor Turner again read an amended resolution DR-2016-03-07 with agreed-upon rates into the record. ***Council member Glodowski moved to approve the resolution as read, with a second by Council member Bateman. Council member Bunker suggested adding the resolution number where cited passed on May 5, 2013 and the number DR-2013-05-06B will appear on the resolution. The motion passed unanimously with "aye" votes.***

8) DANIEL MUNICIPAL WATER ISSUES AS NEEDED

Kim Norris stated an engineer from Salt Lake came to Daniel to run a flow test on Ranch Drive and it was found that, due to poor flow, a hydrant was closed 75 percent. Once the valve was opened, the flow rate met needed standards. Mr. Norris inquired if the small section of 6-inch line on the south end of Ranch Drive needed to be replaced as the line continues north through an 8-inch line. Mr. Taylor suggested since the school is paying for the construction and in an attempt to have the lines uniform throughout the area, the 6-inch line should be abandoned and an 8-inch line installed northward from 3000 South to the proposed school.

9) STORM HAVEN WATER ISSUES AS NECESSARY

Council member Bateman commented the new meters have been set and the generator is operating. Ryan Taylor stated reading the master water reader, a lot of water is going through the system. Reasons for this could be leaks, once of which was repaired on Tammy Lane as reported by Kim Norris. Mr. Norris also mentioned the work accomplished since the acquisition by Daniel Town, that being a back-up pump, a smaller working pump in the well itself, the generator for back-up power, and new water meters. He is pleased with the upgrade.

However, he mentioned the metal tank was inspected by the State in 2002 and found to be in poor condition. Ryan Taylor stated the master plan calls for an elevated 3,000-gallon tank to be located at a new site hopefully within five years and does not recommend an interim fix.

Council member Blotter mentioned he still wants to address the wages paid to water system personnel, but recommends it be put on next month's agenda. Mayor Turner asked that this be done.

In conclusion, Council member Bunker stated the State is going to add additional points onto the Storm Haven IPS report for the system without completion of a sanitary survey in the near future. Mike Duggin, as one of the Town's water operators, has indicated he will work on the matter. Ryan Taylor stated where we will be looking for future grant monies, getting the points reduced should be a major endeavor for the Town. Council member Bunker asked that the clerk disseminate the Storm Haven documents to Mr. Duggin and Kim Norris.

10) DISCUSSION OF WITT-HEINER ANNEXATION INTO HEBER CITY

Mayor Turner explained to the Council he attended the Heber City Council meeting and voiced his concerns on the annexation. Heber officials agreed to move the boundary line to the center of the highway so Daniel Town would have no further issues trying to get land back from Heber. Details still need to be worked out with UDOT.

Council member Bunker instructed Ryan Taylor to align the boundaries between Heber City and Daniel Town through a lot line adjustment so there is a loop around the annexation. This will be a municipal boundary adjustment going to the centerline of Highway 40. All Council members concurred and agreed to have Epic Engineering perform the necessary work.

11) DISCUSSION OF US DEPARTMENT OF INTERIOR ENVIRONMENTAL ASSESSMENT ON DANIEL IRRIGATION CANAL MODIFICATION/PIPELINE

Mayor Turner commented in addition to the EA, the Department will probably go forth with an environmental impact study. Council member Glodowski asked for a map showing the route of the pipeline in addition to the written coordinates. Mayor Turner stated he would like permission to have the Town's legal counsel review all documents exchanged between Daniel Irrigation and Daniel Town, the latest being a letter from attorney Corbin Gordon with a newer draft of the easement. Ryan Taylor stated the irrigation company had not answered some of the Town's questions. The initial draft of easement was exclusive stating nothing could be put in the pipeline easement. A nonexclusive easement was then requested by the Town, and the issue was not addressed in the latest response. Another request of Daniel Town was that there be no turnouts and the easement be only for the one pipe, which request was not addressed in their response either. The irrigation company has a legal opinion that they have a 33' wide easement down the entire length of the canal and feel they can construct the pipeline with the prescriptive easement if they stay within the 33'. Daniel Town had also asked that when the pipeline project was completed, the irrigation company would abandon the old easement, and this issue also was not addressed in the document.

Council member Glodowski's request for a pictorial map will be provided by Epic Engineering. He would like to have that to give to legal counsel. Mayor Turner asked that the Council approve use of a water attorney with the firm of Smith Hartvigsen, who has handled Town matters in the past. The Mayor will forward all materials to this legal firm.

12) APPROVAL OF COUNCIL MINUTES OF FEBRUARY 1, 2016

Council member Blotter moved to approved the February minutes as written, with a second from Council member Glodowski. No changes were suggested and the minutes were approved by the following vote: "Aye" votes from Mayor Turner, Council members Bunker, Blotter and Glodowski, with an abstention from Council member Blotter as he was not present.

13) MAYOR'S UPDATE ON AIRPORT EXPANSION

Mayor Turner commented to the Council that he is certain legal representation will be necessary and costs incurred regarding the airport expansion and would like their permission to move forward. He wants to prepare a document to be signed off on by all Mayors within the valley on expansion of the airport being obtrusive and, in particular, the use of condemnation proceedings.

He cited the following language from the Wasatch County Land Use Plan: "The expansion of the Heber City Airport should be discouraged by the County. The airport's expansion will bring increased noise from all jets and many small aircraft due to the confining nature of the surrounding mountains. With the major airports in Provo and Salt Lake less than 30 to 45 minutes away, a rural setting of Heber Valley need not be disturbed by unwanted noise from aircraft."

Council member Blotter stated his observance of more pollution settling within the valley and expressed opinion that the jets are a major source for the dirty air. Where the EPA is cracking down on contributors of pollution in Salt Lake Valley, the same thinking should apply to this mountain valley.

Mayor Turner feels a change in the Heber City Council recently plays more in the Town's favor and wants to speak with legal counsel in this regard. Upon getting signatures from local government officials, the Mayor will present their opposition notice to the Heber City Council for their consideration.

14) RECORDER'S OFFICE: WARRANT APPROVAL, ANNOUNCEMENT, ETC.

The clerk reviewed the Town warrants with the Council, as well as those invoices presented to Daniel Municipal Water and Storm Haven Water. An increase in HL&P service was noted and will have to be budgeted in the coming fiscal year. She mentioned the seminar and hotel expense incurred by Council member Bunker at a recent water seminar he attended in St. George. She also pointed out invoices from Computer Nerds for IT work for all three entities.

She then produced a close-out tally for the Storm Haven water meter replacement and pumphouse construction with a report the entity still has a positive amount in the bank account.

Council member Blotter moved to approve the warrants as presented, which was seconded by Council member Bateman. The motion passed unanimously.

15) ADJOURN

Council member Blotter moved to adjourn the meeting. It was seconded by Council member Bateman, and Mayor Turner adjourned the meeting at 9:28 PM.

Lynne Shindurling
Clerk/Recorder